

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RASHAUN ROUNDTREE,

Plaintiff,

-against-

ORANGE COUNTY; SALWAH KHOURI, MD,

Defendants.

22-CV-1697 (CS)

ORDER OF SERVICE

CATHY SEIBEL, United States District Judge:

Plaintiff, who is currently incarcerated at Wallkill Correctional Facility, brings this *pro se* action under 42 U.S.C. § 1983, alleging that Defendants violated his constitutional rights during his 2019 detention in the Orange County Jail. By order dated March 18, 2022, the Court granted Plaintiff's request to proceed in forma pauperis ("IFP"), that is, without prepayment of fees.¹ (ECF No. 5.)

On July 26, 2024, Plaintiff filed a fourth amended complaint adding two new Defendants: the Sheriff of Orange County and the Deputy of Administration at the Orange County Jail. (ECF No. 44.) By order dated July 30, 2024, the Court directed counsel for Orange County to provide the names of the individuals who held these positions during the relevant time frame. (ECF No. 45.) On September 5, 2024, counsel for Orange County provided the names of the individuals. (ECF No. 47.)

¹ Prisoners are not exempt from paying the full filing fee even when they have been granted permission to proceed IFP. *See* 28 U.S.C. § 1915(b)(1).

DISCUSSION

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service.² *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP).

To allow Plaintiff to effect service on Defendants Sheriff Carl DuBois and Administrator Anthony Mele, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for each of these Defendants. The Clerk of Court is further instructed to issue a summons and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon these Defendants.

If the Complaint is not served within 90 days after the date the summons is issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service).

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

²Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have effected service until the Court reviewed the complaint and ordered that a summons be issued. The Court therefore extends the time to serve until 90 days after the summons is issued.

CONCLUSION

The Clerk of Court is directed to mail a copy of this order to Plaintiff.

The Clerk of Court is further instructed to issue a summons on Defendants Sheriff Carl DuBois and Administrator Anthony Mele, complete the USM-285 form with the address for each Defendant, and deliver all documents necessary to effect service to the U.S. Marshals Service.

The Clerk of Court is also directed to mail a copy of this order to the County Attorney for the County of Orange at: 255-275 Main Street, Goshen, New York 10924.

SO ORDERED.

Dated: September 6, 2024
White Plains, New York



CATHY SEIBEL
United States District Judge

SERVICE ADDRESSES FOR THE DEFENDANTS

1. Sheriff Carl DuBois
County Attorney for the County of Orange
255-275 Main Street
Goshen, New York 10924
2. Administrator Anthony Mele
County Attorney for the County of Orange
255-275 Main Street
Goshen, New York 10924